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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALDO DAVID ALCARAZ,

Defendant.

Case No. 1:21-cr-00205-ADA-BAM

**STIPULATION TO CONTINUE APRIL 24, 2023
HEARING ON MOTION TO SUPPRESS TO
MAY 15, 2023 AND BRIEFING SCHEDULE
PRECEDING SAME; ORDER**

Ctrl: 1

Hon. Ana de Alba

THE PARTIES HEREBY STIPULATE, through their respective counsel, Assistant United States Attorney, Brian W. Enos, on behalf of the government, and Thomas Matthews, Esq., on behalf of defendant Aldo David Alcaraz ("Alcaraz"), to a three-week continuance of both this action's hearing on Alcaraz's suppression motion and remaining predicate briefing schedule as follows:

CURRENT SCHEDULE

PROPOSED MODIFIED SCHEDULE

- | | | |
|-------------------------|--------------------------------|----------------|
| 1. Motion Filing - | March 13, 2023 (filed March 8) | |
| 2. Opposition Filing - | April 3, 2023 | April 24, 2023 |
| 3. Reply Brief Filing - | April 10, 2023 | May 1, 2023 |
| 4. Hearing on Motions - | April 24, 2023 | May 15, 2023 |

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STIPULATION

The parties base this stipulation on good cause and therefore ask the court to endorse this stipulation by way of formal order. Specifically,

1. On February 1, 2023, and pursuant to the parties' stipulation, the court set an April 24, 2023 hearing date to address matters raised in Alcaraz's pending suppression motion, and pursuant to the above-referenced predicate briefing schedule. Dkt. 39.

2. On March 8, 2023, counsel for the government received Alcaraz's motion to suppress and supporting documentation. Despite exercising diligence in reviewing these papers, it was unable to complete its review of the motion, supporting documentation, other data in discovery relevant to the motion, as well as speak to this action's lead agent about the motion until March 30, 2023. This was in part due to the following:

a) March 13 - preparing for and arguing two sentencing hearings (*United States v. Mayes*, 1:12-cr-211 JLT and *United States v. Turman*, 1:08-cr-207 JLT);

b) March 13 - drafting and submitting a detailed response to a draft PSR on March 13, 2023 (*United States v. Kunkel*, 1:19-cr-29 ADA);

c) March 20 - drafting and filing an opposition to a suppression motion in a separate case, as well as securing supporting declarations from four law enforcement officers each located in separate offices (*United States v. Binford*, 1:20-cr-150 ADA);

d) March 26 and March 27 – drafting and filing pretrial motions, as well as a motion to determine competency (*United States v. Corral*, 2:22-cr-48 JCC); and

e) March 28 – drafting and filing a sentencing brief (*United States v. Binford*, 1:20-cr-150 ADA).

3. By March 30, and after completing his review of Alcaraz's moving papers and relevant components of discovery in detail, it became apparent to counsel for the government that he would need to meet with both of this action's search warrant affiants to discuss issues addressed in Alcaraz's motion. The government has been able to contact one of them, and anticipates speaking with the other today, about personally meeting about these issues with relevant portions of discovery in-hand. These meetings will likely take place at their respective offices in Kern County. They may also lead to the

1 need to meet with this action's computer forensics examiner (also in Kern County) to assess the location
2 of certain items of evidence within electronic devices.

3 4. The results of the above efforts will inform the government about how to best respond to
4 Alcaraz's motion, and may impact the contours of a potential resolution of this matter prior to trial.

5 5. Counsel for the government contacted defense counsel about the above matters on March
6 30, resulting in the defense's gracious stipulation to the three-week extension by which to file opposition
7 and reply papers in this case, and concomitant three-week continuance of the April 24 hearing date. On
8 this same date, counsel for the government also advised chambers of the parties' intended stipulation in
9 this regard. The parties further learned that, should the court endorse this stipulation by way of formal
10 order, that it could accommodate the continued suppression hearing on its May 15, 2023 calendar.

11 6. At the conclusion of the May 15, 2023 hearing, the parties will be prepared to discuss
12 with the district court prudent next steps (including court appearances) necessary to meaningfully move
13 the case forward. Based on the above-stated findings, the ends of justice served by continuing the case
14 as requested outweigh the interest of the public and the defendant in a trial within the original date
15 prescribed by the Speedy Trial Act.

16 7. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq.,
17 within which trial must commence, the time period of April 24, 2023 through May 15, 2023, inclusive,
18 is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B)(iv) because it results from a
19 continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends
20 of justice served by taking such action outweigh the best interest of the public and the defendant in a
21 speedy trial. In addition, the time period of April 24, 2023, 2023 through May 15, 2023, inclusive, is
22 further deemed excludable pursuant to 18 U.S.C. § 3161(h)(1)(D) because it results from "any pretrial
23 motion, from the filing of the motion through the conclusion of the hearing on, or other prompt
24 disposition of, such motion."

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1 IT IS SO STIPULATED.

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3 Dated: March 31, 2023

PHILLIP A. TALBERT
United States Attorney

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5 By: /s/ Brian W. Enos
6 Brian W. Enos
7 Assistant United States Attorney
(As authorized 3/31/23)

8 Dated: March 31, 2023

By: /s/ Thomas P. Matthews
Thomas P. Matthews, Esq.
Attorney for Defendant
Aldo David Alcaraz

ORDER


IT IS ORDERED that

1. this action's February 8, 2023 status conference be vacated;
2. the hearing on the motion to suppress is continued from Monday, April 24, 2023 to Monday, May 15, 2023 (Ct rm 1, 10:00 am); and
3. the parties' adhere to the following modified briefing schedule in advance of the hearing;
 - a. Government's opposition brief filing deadline – April 24, 2023,
 - b. Reply brief filing deadline, if any – May 1, 2023.

IT IS FURTHER ORDERED THAT the period of time from April 24, 2023, through May 1, 2023, is deemed excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i) and (iv) because it results from a continuance granted by the Court at defendants' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. In addition, the time period of April 24, 2023 through May 15, 2023, inclusive, is further deemed excludable pursuant to 18 U.S.C. § 3161(h)(1)(D) because it results from "any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion."

IT IS SO ORDERED.

Dated: April 3, 2023


UNITED STATES DISTRICT JUDGE